

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

TWENTIETH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 7, 2013

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Reverend Susan Carr, followed by the Pledge of Allegiance led by Senate page Nolan Welker.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the nineteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration
3 HB 1071, 1072, and 1073 and returns the same with the recommendation that said bills do pass.

4 Also MR. PRESIDENT:

5 The Committee on Judiciary respectfully reports that it has had under consideration
6 HB 1070 and returns the same with the recommendation that said bill do pass and be placed on
7 the consent calendar.

8 Also MR. PRESIDENT:

9 The Committee on Judiciary respectfully reports that it has had under consideration
10 HB 1074 and returns the same with the recommendation that said bill be amended as follows:

11 1074rta

12 On page 1, line 2, of the printed bill, delete "for newborns or newly adopted children" and
13 insert "in relation to the eligibility of minor dependents for coverage".

14 And that as so amended said bill do pass.

15 Respectfully submitted,
16 Craig Tieszen, Chair

17 Also MR. PRESIDENT:

18 The Committee on Appropriations respectfully reports that it has had under consideration
19 SB 10, 11, and 189 and returns the same with the recommendation that said bills do pass.

20 Also MR. PRESIDENT:

21 The Committee on Appropriations respectfully reports that it has had under consideration
22 SB 190 and returns the same with the recommendation that said bill be amended as follows:

23 190ua

24 On page 1, line 4, of the printed bill, delete "five hundred" and insert "four hundred fifty
25 thousand dollars (\$450,000)".

26 On page 1, line 5, delete "thousand dollars (\$500,000)".

1 On page 1, after line 12, insert:

2 "Section 4. That § 10-18A-5 be amended to read as follows:

3 10-18A-5. The amount of refund of real property taxes due or paid for a single-member
4 household made pursuant to this chapter shall be according to the following schedule:

5			The refund of real
6	If household income is		property taxes due
7	more than:	but less than	or paid shall be
8	\$ 0	\$4,250 <u>4,500</u>	35%
9	4,251 <u>4,501</u>	4,510 <u>4,760</u>	34%
10	4,511 <u>4,761</u>	4,770 <u>5,020</u>	33%
11	4,771 <u>5,021</u>	5,030 <u>5,280</u>	32%
12	5,031 <u>5,281</u>	5,290 <u>5,540</u>	31%
13	5,291 <u>5,541</u>	5,550 <u>5,800</u>	30%
14	5,551 <u>5,801</u>	5,810 <u>6,060</u>	29%
15	5,811 <u>6,061</u>	6,070 <u>6,320</u>	28%
16	6,071 <u>6,321</u>	6,330 <u>6,580</u>	27%
17	6,331 <u>6,581</u>	6,590 <u>6,840</u>	26%
18	6,591 <u>6,841</u>	6,850 <u>7,100</u>	25%
19	6,851 <u>7,101</u>	7,110 <u>7,360</u>	24%
20	7,111 <u>7,361</u>	7,370 <u>7,620</u>	23%
21	7,371 <u>7,621</u>	7,630 <u>7,880</u>	22%
22	7,631 <u>7,881</u>	7,890 <u>8,140</u>	21%
23	7,891 <u>8,141</u>	8,150 <u>8,400</u>	20%
24	8,151 <u>8,401</u>	8,410 <u>8,660</u>	19%
25	8,411 <u>8,661</u>	8,670 <u>8,920</u>	18%
26	8,671 <u>8,921</u>	8,930 <u>9,180</u>	17%
27	8,931 <u>9,181</u>	9,190 <u>9,440</u>	16%
28	9,191 <u>9,441</u>	9,450 <u>9,700</u>	15%

1	9,451 <u>9,701</u>	9,710 <u>9,960</u>	14%
2	9,711 <u>9,961</u>	9,970 <u>10,220</u>	13%
3	9,971 <u>10,221</u>	10,230 <u>10,480</u>	12%
4	10,231 <u>10,481</u>	10,500 <u>10,750</u>	11%
5	over 10,500 <u>10,750</u>		No refund

6 Section 5. That § 10-18A-6 be amended to read as follows:

7 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member
8 household made pursuant to this chapter shall be according to the following schedule:

9			The refund of real
10	If household income is		property taxes due
11	more than:	but not more than	or paid shall be
12	\$ 0	\$7,250 <u>7,750</u>	55%
13	7,251 <u>7,751</u>	7,611 <u>8,111</u>	53%
14	7,612 <u>8,112</u>	7,972 <u>8,472</u>	51%
15	7,973 <u>8,473</u>	8,333 <u>8,833</u>	49%
16	8,334 <u>8,834</u>	8,694 <u>9,194</u>	47%
17	8,695 <u>9,195</u>	9,055 <u>9,555</u>	45%
18	9,056 <u>9,556</u>	9,416 <u>9,916</u>	43%
19	9,417 <u>9,917</u>	9,777 <u>10,277</u>	41%
20	9,778 <u>10,278</u>	10,138 <u>10,638</u>	39%
21	10,139 <u>10,639</u>	10,499 <u>10,999</u>	37%
22	10,500 <u>11,000</u>	10,860 <u>11,360</u>	35%
23	10,861 <u>11,361</u>	11,221 <u>11,721</u>	33%
24	11,222 <u>11,722</u>	11,582 <u>12,082</u>	31%
25	11,583 <u>12,083</u>	11,943 <u>12,443</u>	29%
26	11,944 <u>12,444</u>	12,304 <u>12,804</u>	27%
27	12,305 <u>12,805</u>	12,665 <u>13,165</u>	25%
28	12,666 <u>13,166</u>	13,026 <u>13,526</u>	23%

1	13,027 <u>13,527</u>	13,387 <u>13,887</u>	21%
2	13,388 <u>13,888</u>	13,750 <u>14,250</u>	19%
3	over 13,750 <u>14,250</u>		No refund

4 Section 6. That § 10-45A-5 be amended to read as follows:

5 10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a
6 household consisting solely of one person shall be determined as follows:

- 7 (1) If the claimant's income is ~~four thousand two hundred fifty~~ four thousand five
8 hundred dollars or less, a sum of two hundred fifty-eight dollars;
- 9 (2) If the claimant's income is ~~four thousand two hundred fifty-one~~ four thousand five
10 hundred one dollars and not more than ~~ten thousand five hundred~~ ten thousand seven
11 hundred fifty dollars, a sum of forty-six dollars plus three and four-tenths percent of
12 the difference between ~~ten thousand five hundred~~ ten thousand seven hundred fifty
13 dollars and the income of the claimant; and
- 14 (3) If the claimant's income is more than ~~ten thousand five hundred~~ ten thousand seven
15 hundred fifty dollars, no refund.

16 Section 7. That § 10-45A-6 be amended to read as follows:

17 10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a
18 household consisting of more than one person shall be determined as follows:

- 19 (1) If household income is ~~seven thousand two hundred fifty~~ seven thousand seven
20 hundred fifty dollars or less, the sum of five hundred eighty-one dollars;
- 21 (2) If household income is ~~seven thousand two hundred fifty-one~~ seven thousand seven
22 hundred fifty-one dollars and not more than ~~thirteen thousand seven hundred fifty~~
23 fourteen thousand two hundred fifty dollars, a sum of seventy-four dollars plus seven
24 and eight-tenths percent of the difference between ~~thirteen thousand seven hundred~~
25 fifty fourteen thousand two hundred fifty dollars and total household income; and
- 26 (3) If household income is more than ~~thirteen thousand seven hundred fifty~~ fourteen
27 thousand two hundred fifty dollars, no refund.

28 Section 8. Whereas, this Act is necessary for the support of the state government and its
29 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
30 full force and effect from and after its passage and approval."

1 190uta

2 On page 1, line 2, of the printed bill, after "disability" insert ", to revise the income
3 eligibility requirements for property and sales tax refunds, and to declare an emergency".

4 And that as so amended said bill do pass.

5 Respectfully submitted,
6 Deb Peters, Chair

7 **MESSAGES FROM THE HOUSE**

8 MR. PRESIDENT:

9 I have the honor to transmit herewith HB 1029, 1168, and 1239 which have passed the
10 House and your favorable consideration is respectfully requested.

11 Also MR. PRESIDENT:

12 I have the honor to transmit herewith HCR 1004 which has been adopted by the House and
13 your concurrence is respectfully requested.

14 Also MR. PRESIDENT:

15 I have the honor to return herewith SB 48 and 49 which have passed the House without
16 change.

17 Respectfully,
18 Arlene Kvislen, Chief Clerk

19 **MOTIONS AND RESOLUTIONS**

20 HCR 1004: A CONCURRENT RESOLUTION, Expressing support for the 2013 South
21 Dakota coordinated plan for natural resources conservation.

22 Was read the first time, the President waived the referral to committee, and placed
23 HCR 1004 on the calendar of Monday, February 11, the 21st legislative day.

1 Sen. Olson moved that SB 125 be placed to precede SB 224 on today's calendar.

2 Which motion prevailed.

3 **CONSIDERATION OF REPORTS OF COMMITTEES**

4 Sen. Olson moved that the reports of the Standing Committees on

5 Transportation on SB 151 as found on page 338 of the Senate Journal; also

6 State Affairs on SB 198 as found on page 340 of the Senate Journal be adopted.

7 Which motion prevailed.

8 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

9 HB 1029: FOR AN ACT ENTITLED, An Act to exempt persons hunting mountain lions
10 from the requirement to wear fluorescent orange exterior garments.

11 Was read the first time and referred to the Committee on Agriculture and Natural
12 Resources.

13 HB 1168: FOR AN ACT ENTITLED, An Act to increase certain levies relating to predator
14 control districts.

15 Was read the first time and referred to the Committee on Agriculture and Natural
16 Resources.

17 HB 1239: FOR AN ACT ENTITLED, An Act to authorize school districts to use certain
18 tax levies for pension and health insurance purposes.

19 Was read the first time and referred to the Committee on Taxation.

20 **CONSIDERATION OF CONSENT EXECUTIVE APPOINTMENTS**

21 The Senate proceeded to the consideration of the executive reappointment of D. J. Mertens
22 of Lyman County, Kennebec, South Dakota, to the South Dakota Building Authority.

1 The question being "Does the Senate advise and consent to the executive reappointment
2 of D. J. Mertens pursuant to the executive message as found on page 286 of the Senate
3 Journal?"

4 And the roll being called:

5 Yeas 35, Nays 0, Excused 0, Absent 0

6 Yeas:

7 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
8 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
9 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
10 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

11 So the question having received an affirmative vote of a majority of the members-elect, the
12 President declared the reappointment confirmed.

13 The Senate proceeded to the consideration of the executive appointment of Craig D.
14 Johnson of Pennington County, Rapid City, South Dakota, as the Assistant Adjutant General,
15 Army.

16 The question being "Does the Senate advise and consent to the executive appointment of
17 Craig D. Johnson pursuant to the executive message as found on page 300 of the Senate
18 Journal?"

19 And the roll being called:

20 Yeas 35, Nays 0, Excused 0, Absent 0

21 Yeas:

22 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
23 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
24 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
25 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

26 So the question having received an affirmative vote of a majority of the members-elect, the
27 President declared the appointment confirmed.

28 SECOND READING OF CONSENT CALENDAR ITEMS

29 HB 1047: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
30 examination for an application for a funeral service license.

31 Was read the second time.

1 The question being "Shall HB 1047 pass?"

2 And the roll being called:

3 Yeas 35, Nays 0, Excused 0, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
6 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
7 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
8 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

9 So the bill having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill passed and the title was agreed to.

11 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

12 SB 125: FOR AN ACT ENTITLED, An Act to provide for the award of joint physical
13 custody of children under certain circumstances.

14 Was read the second time.

15 The question being "Shall SB 125 pass as amended?"

16 And the roll being called:

17 Yeas 13, Nays 21, Excused 1, Absent 0

18 Yeas:

19 Begalka; Bradford; Frerichs; Heineman (Phyllis); Jensen; Krebs; Lederman; Maher; Monroe;
20 Olson (Russell); Otten (Ernie); Rampelberg; Van Gerpen

21 Nays:

22 Adelstein; Brown; Buhl; Ewing; Holien; Hunhoff (Jean); Johnston; Jones; Kirkeby; Lucas;
23 Novstrup (Al); Omdahl; Peters; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle; Welke;
24 White

25 Excused:

26 Rave

27 So the bill not having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill lost.

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HONORED GUEST

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The President introduced Congresswoman Kristi Noem who addressed the body.

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There being no objection, the Senate reverted to Order of Business No. 5.

4

REPORTS OF STANDING COMMITTEES

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MR. PRESIDENT:

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The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 111 and returns the same with the recommendation that said bill do pass.

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Also MR. PRESIDENT:

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The Committee on Commerce and Energy respectfully reports that it has had under consideration the nomination of Brent Dykstra, Stanley County, Fort Pierre, South Dakota, to the South Dakota Lottery Commission and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment and place on the consent calendar.

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Also MR. PRESIDENT:

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The Committee on Commerce and Energy respectfully reports that it has had under consideration the nomination of Roger Novotny, Stanley County, Fort Pierre, South Dakota, to the South Dakota Lottery Commission and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment and place on the consent calendar.

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Also MR. PRESIDENT:

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The Committee on Commerce and Energy respectfully reports that it has had under consideration the nomination of Charles M. Turbiville, Lawrence County, Deadwood, South Dakota, to the South Dakota Lottery Commission and returns the same with the recommendation that the Senate advise and consent to the confirmation of said appointment and place on the consent calendar.

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1 Also MR. PRESIDENT:

2 The Committee on Commerce and Energy respectfully reports that it has had under
3 consideration the nomination of Tom Graham, Minnehaha County, Sioux Falls, South Dakota,
4 to the South Dakota Building Authority and returns the same with the recommendation that the
5 Senate advise and consent to the confirmation of said reappointment and place on the consent
6 calendar.

7

8 Also MR. PRESIDENT:

9 The Committee on Commerce and Energy respectfully reports that it has had under
10 consideration SB 73, 226, and 242 which were tabled.

11 Respectfully submitted,
12 Ried S. Holien, Chair

13 Also MR. PRESIDENT:

14 The Committee on Agriculture and Natural Resources respectfully reports that it has had
15 under consideration SB 101, 148, 149, 150, and 210 which were deferred to the 41st Legislative
16 Day.

17 Respectfully submitted,
18 Shantel Krebs, Chair

19 Sen. Olson moved that the balance of the calendar including SB 224, 185, 132, 153, SJR
20 2, SB 205, 169, 215, SJR 1, SB 166, 207, 157, HB 1019, 1020, 1091, and 1011 be deferred to
21 Monday, February 11, the 21st legislative day.

22 Which motion prevailed.

23 **SIGNING OF BILLS**

24 The President publicly read the title to

25 SB 48: FOR AN ACT ENTITLED, An Act to authorize the Transportation Commission
26 to establish rules governing the allowance, placement, and maintenance of newspaper vending
27 machines at interstate rest areas.

28 SB 49: FOR AN ACT ENTITLED, An Act to establish the fee charged by registers of
29 deeds for documents filed by the Department of Transportation disposing of highway right-of-
30 way that is no longer needed for highway purposes.

1 HB 1024: FOR AN ACT ENTITLED, An Act to provide for the addition of certain
2 employees of the municipality of Sioux Falls to the South Dakota Retirement System.

3 HB 1025: FOR AN ACT ENTITLED, An Act to revise certain actuarial and reporting
4 requirements relating to the South Dakota Retirement System.

5 And signed the same in the presence of the Senate.

6 COMMEMORATION

7 SC 8 Introduced by: Senators Lucas, Adelstein, Begalka, Bradford, Brown, Buhl, Ewing,
8 Frerichs, Heineman (Phyllis), Holien, Hunhoff (Jean), Johnston, Jones, Kirkeby, Krebs,
9 Lederman, Maher, Monroe, Novstrup (Al), Olson (Russell), Omdahl, Otten (Ernie), Peters,
10 Rampelberg, Rave, Rhoden, Soholt, Sutton, Tidemann, Tieszen, Van Gerpen, Vehle, Welke,
11 and White and Representatives Schaefer, Bartling, Bolin, Cammack, Campbell, Conzet, Craig,
12 Cronin, Dryden, Duvall, Ecklund, Erickson, Feickert, Feinstein, Gibson, Greenfield, Haggar
13 (Don), Haggar (Jenna), Hajek, Hansen, Hawks, Hawley, Heinert, Hickey, Hoffman, Hunhoff
14 (Bernie), Johns, Kaiser, Killer, Kirschman, Kopp, Latterell, Lust, Magstadt, May, Mickelson,
15 Miller, Munsterman, Nelson, Novstrup (David), Olson (Betty), Otten (Herman), Parsley,
16 Peterson, Qualm, Rasmussen, Ring, Romkema, Rounds, Russell, Schoenfish, Schrempp, Sly,
17 Soli, Solum, Stalzer, Steele, Stevens, Tulson, Tyler, Verchio, Werner, Westra, Wick, Wink, and
18 Wismer

19 A LEGISLATIVE COMMEMORATION, Honoring Harold Thune and Jerald Applebee of
20 Murdo for their individual accomplishments, as well as their efforts and involvement with
21 the Annual Jones County Invitational Basketball Tournament.

22 WHEREAS, Harold Thune served the Jones County School District for twenty-one years
23 as a teacher, coach, and athletic director. Harold was a distinguished high school basketball
24 player and a successful coach who will be inducted into the South Dakota Sports Hall of Fame
25 this spring for those accomplishments; and

26 WHEREAS, Harold enlisted in the United States Navy and served his country during World
27 War II where he completed numerous missions, showed great aptitude as a pilot, and was
28 awarded the Distinguished Flying Cross for his efforts; and

29 WHEREAS, Jerald Applebee coached several sports and taught American history and
30 government classes, and has been involved in the Jones County School District for thirty-two
31 years. Jerald also served as the principal for many years and then took over as the athletic
32 director later on in his career; and

33 WHEREAS, both Harold and Jerald were recognized for these achievements at the 45th
34 Annual Jones County Invitational Basketball Tournament, which they originally helped start.
35 They were honored by a dedication ceremony that renamed the city auditorium the Harold
36 Thune Auditorium and the playing floor the Jerald Applebee Court:

6 Jeannette Schipper, Secretary